THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32424 of 1997

Dated: 12.02.2007

Between:

B. Nagacharyulu.

... PETITIONER

AND

The Executive Engineer (R&B), Kakinada, and others.

...RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32424 of 1997

ORDER:

The petitioner approached this Court and filed the present writ petition with the following prayer:

> *"For the reasons stated in the accompanying affidavit the petitioner prayed that the Hon'ble Court be pleased to issue a writ or order or direction in the nature of Writ of mandamus declaring that the action of the respondents 1 to 4 in demolishing the premises bearing No.4-26 A situated in Main Road, Chelluru village belonging to the petitioner as illegal and arbitrary and direct them to pay the compensation of Rs.1,00,000/- (Rupees one lakh only) for demolishing the shed of the petitioner and consequently direct the 5th respondent to release the sanction for construction of pucca shed in place of premises bearing*
> *No.4-26 A, Chelluru village and pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case."*

The brief facts of the case are as under:

The petitioner claims to be in possession and enjoyment of the premises in question. He has been residing therein, running a cycle shop in the premises since 1978, paying taxes to the Gram Panchayat and obtained electricity connection. It is stated that one Pasumarthi Subramanyam alias Mamaji, who purchased Sri Satyanarayana Rice Mill behind the premises of the petitioner, sent his men in 1996 and attacked the petitioner and his premises. It is also stated that respondents 1 to 4, under the influence of Subrahmanyam, destroyed the premises in question, under the guise of road widening, without giving any notice to the petitioner and without following due process of law and are trying to interfere with the possession of the petitioner. Aggrieved by the said action, the petitioner filed the present writ petition. He also claims compensation at Rs.1,00,000/- for the damage caused.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue and perused the material on record.

This Court on 04.12.1997 was pleased to direct the parties to maintain *statue quo* and also directed Rule Nisi on 19.01.1998. It appears that the writ petition is filed on mere apprehension of the petitioner that he may be dispossessed from the premises in question to which he claims to have title. If really he is having title and is the absolute owner, the respondents cannot evict him without due process under Law.

Accordingly, the writ petition is disposed of with a direction to the respondents to follow due procedure in

accordance with law if possession of the premises in question is required. Insofar as the compensation claimed by the petitioner is concerned, this Court cannot hold a probe into the aspect as to whether the petitioner is entitled to the compensation for the damage caused. If so advised, he may approach the competent civil Court and file a suit for damages. No costs.

(GOPALA KRISHNA TAMADA, J)

12th February, 2007.
ghn